

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



March 13, 2003

Agenda ID #1914

TO: PARTIES OF RECORD IN APPLICATION 01-03-036

This is the draft decision of Administrative Law Judge Cooke. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ Angela K. Minkin
Angela K. Minkin, Chief
Administrative Law Judge

ANG: avs

Decision **DRAFT DECISION OF ALJ COOKE** (Mailed 3/13/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate Of Public Convenience & Necessity Valley-Rainbow 500kV Inter-Connect Project.

Application 01-03-036
(Filed March 23, 2001)

DECISION DENYING PETITION TO MODIFY

On January 23, 2003, San Diego Gas & Electric Company (SDG&E) filed a petition to modify Decision (D.) 02-12-066, which denied without prejudice SDG&E's request for a certificate of public convenience and necessity for a 500 kilovolt transmission project known as Valley-Rainbow. D.02-12-066 found that based on the evidence, SDG&E would not experience a capacity deficiency within the adopted five-year planning horizon for the project. Based on the record, the Commission concluded that SDG&E should have sufficient capacity to reliably meet its needs through at least 2008 or 2009. (*See* D.02-12-066, p.57.) However, the decision does not conclude when SDG&E will experience a capacity deficiency after the adopted five-year planning horizon ends.

In its petition, SDG&E asks the Commission to reverse its conclusion in D.02-12-066 regarding the need for a project within the five year planning horizon based on "new evidence" it presents. SDG&E seeks to have the Commission rely on SDG&E's interpretation of that "evidence" without the opportunity for cross-examination or the ability of other parties to present evidence that might contradict SDG&E's interpretation. In other words, SDG&E seeks to have the Commission reopen the record to accept SDG&E's newly

proffered evidence without providing equal opportunity for other parties to do the same. In this case, the Commission specifically provided that if SDG&E identified a reliability or economic need for a similar transmission project in the future, it should file a new application. (*See* D.02-12-066, p.70.)

In light of this direction, we deny the petition to modify without assessing the merits of the “new evidence” proffered by SDG&E or other parties. We agree with Office of Ratepayer Advocates (ORA) that “if SDG&E wants to make an evidentiary showing about new events that it alleges make the project needed today, then its proper course is to file a new application “(*see* ORA Response, p.2) that describes its proposed project, location and routing, costs, and alternatives.

Findings of Fact

1. In D.02-12-066, the Commission directed SDG&E to file a new application if new information indicated the need for a project.
2. SDG&E seeks to introduce new evidence into the record without it being tested by cross-examination or the opportunity for other parties to present evidence.

Conclusions of Law

1. Evaluation of potential new “evidence” requires reopening the record and holding additional evidentiary hearings.
2. SDG&E’s proper remedy is to file a new application as described in D.02-12-066.
3. The petition to modify should be denied.

O R D E R

Therefore, **IT IS ORDERED** that San Diego Gas & Electric Company's petition for modification is denied.

This order is effective today.

Dated _____, at San Francisco, California.